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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 28 June 2017 from the Permanent Mission of Malta to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Malta to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit the report of Malta on the implementation of Security Council resolution 2321 (2016) concerning the Democratic People's Republic of Korea (see annex).

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Annex to the note verbale dated 28 June 2017 from the Permanent Mission of Malta to the United Nations addressed to the Chair of the Committee

Report of Malta on the implementation of Security Council resolution 2321 (2016)

As a European Union member State, Malta has implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in resolution 2321 (2016) following its transposition by the European Union, through:

(a) Council Decision (CFSP) 2016/2217 of 8 December 2016 amending Decision (CFSP) 2016/849 designating additional persons and entities under the travel ban and asset freeze;

(b) Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 amending Council Regulation (EC) No. 329/2007 designating additional persons and entities under the travel ban and asset freeze;

(c) Council Decision (CFSP) 2017/345 of 27 February 2017 amending Decision (CFSP) 2016/849 implementing all the measures contained in resolution 2321 (2016);

(d) Council Regulation (EU) 2017/330 of 27 February 2017 amending Regulation (EC) No. 329/2007, which gives effect to the measures provided in Council Decision (CFSP) 2017/345 of 27 February 2017.

These measures provide for the following:

(a) Trade ban on the nuclear- and missile-usable items listed in annex III to resolution 2321 (2016);

(b) Trade ban on items contained in a new conventional arms dual-use list adopted by the Sanctions Committee, pursuant to paragraph 7 of resolution 2321 (2016);

(c) Ban on the leasing or chartering of vessels or aircraft, and on providing crew services, to the Democratic People's Republic of Korea;

(d) Prohibition on registering vessels in the Democratic People's Republic of Korea, obtaining authorization for a vessel to use the flag of that country and owning, leasing, operating, providing vessel classification, certification or associated services to, or insuring a vessel flagged by, the Democratic People's Republic of Korea;

(e) Clarification that specialized teaching and training that could contribute to the proliferation of sensitive nuclear activities of the Democratic People's Republic of Korea or that country's development of nuclear weapons delivery systems includes, but is not limited to, advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering;

(f) Suspension of scientific and technical cooperation involving persons or groups that are officially sponsored by or that represent the Democratic People's Republic of Korea, except in the case of medical exchanges. Exemptions may be granted by the Sanctions Committee in the fields of nuclear science and technology, aerospace and aeronautical engineering and technology or advanced manufacturing production techniques and methods when it has determined, on a case-by-case basis,

that the activity will not contribute to illegal activities; for other fields of technical cooperation, the Member State may determine that the activity will not contribute to illegal activities, in which case it must notify the Sanctions Committee in advance;

(g) Attribution to the Sanctions Committee of the power to list vessels if it has information or reasonable grounds to believe that the vessels are involved in illegal activities; including additional measures that might be imposed by the Sanctions Committee;

(h) Restriction on the entry into or transit through the territory of Member States of members of the Government and officials of the Democratic People's Republic of Korea and members of that country's armed forces who are linked to illicit activities;

(i) Limitation on the number of accounts at banks in the European Union to one per diplomatic mission and consular post of the Democratic People's Republic of Korea, and one per accredited diplomat and consular officer of that country;

(j) Prohibition against the Democratic People's Republic of Korea using real property that it owns or leases for any purpose other than diplomatic or consular activities, and against leasing from the Democratic People's Republic of Korea real property situated outside its territory;

(k) Prohibition on providing insurance or re-insurance services to vessels owned, controlled or operated, including through illicit means, by the Democratic People's Republic of Korea;

(l) Prohibition on procuring vessel and aircraft crewing services from the Democratic People's Republic of Korea;

(m) Obligation to deregister any vessel that is owned, controlled or operated by the Democratic People's Republic of Korea, including a prohibition on registering any such vessel that has been deregistered by another Member State;

(n) Extension of export prohibitions: the establishment of a new regime for the export ban on coal, including a cap on the exemptions relating to total exports to all Member States, with the power to determine the cap attributed to the Sanctions Committee and the export ban extended to new items, namely, statues, new helicopters and vessels, copper, nickel, silver and zinc;

(o) In the financial sector: imposition of an obligation to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic of Korea within 90 days, unless approved by the Sanctions Committee on the grounds that the accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions;

(p) Prohibition on providing public and private financial support, including the granting of export credits, guarantees or insurance to nationals or entities of the Democratic People's Republic of Korea involved in such trade;

(q) Obligation to expel persons who are working on behalf of or at the direction of a bank or financial institution of the Democratic People's Republic of Korea, unless the presence of the person is required for the fulfilment of a judicial process or exclusively for medical, safety or humanitarian purposes;

(r) Obligation to seize and dispose of (such as through destruction, rendering inoperable or unusable, storage or transfer to a State other than the originating or destination State for disposal) items the supply, sale, transfer or export of which is prohibited under Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016) and that are identified through inspections, in a manner that is not inconsistent with the

obligations of Member States under applicable Security Council resolutions, including resolution 1540 (2004);

(s) The Sanctions Committee may grant exemptions to the aforementioned prohibitions, on a case-by-case basis, including when it has determined that an exemption is necessary to facilitate the work of international and non-governmental organizations.

Such European Union legal instruments, once adopted, are directly applicable in Malta's national context. Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 and Council Regulation (EU) 2017/330 of 27 February 2017 are implemented entirely through the Enforcement of European Union Sanctions (Democratic People's Republic of Korea) Regulations, Subsidiary Legislation 365.72, which establishes penalties for any breach of applicable sanctions. Implementing national authorities were also informed of these additional measures against the Democratic People's Republic of Korea and are regularly informed of any updates or amendments thereto.

The Malta Financial Services Authority regularly issues circulars to the compliance officers of all financial services licence holders to bring to their attention the issue of sanctions regulations issued by the United Nations, including those in respect of the Democratic People's Republic of Korea. Security Council resolutions are also uploaded to the Authority website. Licence holders are requested to report any action taken, including the freezing of assets under such requirements. So far, the Authority has not received any information from local financial institutions that any particular action has been needed in relation to sanctions measures regarding the Democratic People's Republic of Korea. No financial guarantees have ever been issued in favour of individuals or entities from the Democratic People's Republic of Korea.

With regard to export control, no authorization of any controlled item has ever been issued by the Department of Trade of Malta with the Democratic People's Republic of Korea being the ultimate beneficiary.

Moreover, all listed persons are entered in the national stop list according to the respective sanctions list, either to be refused entry when there is a travel ban or to be subject to discreet surveillance when financial/economic sanctions are in place.

Malta has had no cases involving the procuring of vessels from the Democratic People's Republic of Korea and none involving vessels that are owned, controlled or operated by that country or that were deregistered by another Member State and were previously owned by the Democratic People's Republic of Korea. Moreover, that country does not own immovable property in Malta. Searches conducted at the public registry indicate that the Democratic People's Republic of Korea has never owned or possessed any immovable property in Malta, nor does it hold any hypothecary rights in security of any credit owed by third parties.